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COMPARISON BETWEEN ISLAMIC LAWS AND PRIVATE INTERNATIONAL LAWS: JURISDICTIONAL MATTERS OF SUCCESSION

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ABSTRACT

Sharia in Islam, Halakha in Judaism, and canon law in some Christian communities are the three primary types of religious law. In some circumstances, they are meant just as moral instruction for individuals, while in others, they serve as the foundation for a country's legal system. In our study, we compare common law standards systems to succession and private law jurisdiction. Firstly, The Study tries to brief Islamic laws regarding succession and their steps of calculations, exceptions, and non-Muslim status. Secondly, discuss civil laws regarding succession and the concept of universal succession. Finally, the Study focuses on the Jurisdiction of Private International Law. In this study, we used a descriptive method of research. In many legal systems, private international law rules should be seen as a substantial step toward conflict of law control, despite any faults. It meets several international standards in this field and will make significant progress in regulating private international law.

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INTRODUCTION

Civil law, common law, and religious law are the three types of legal systems. Each country builds its version of each design, including various other elements. Civil law, common law, statutory law, religious law, and combinations of these are the four major systems built on modern legal systems (Pelletier Jr et al., 1966). However, the legal framework of every nation differs significantly and is shaped by its past. A sub-field of law known as comparative law studies law at the level of legal systems. Additionally, it can be said that common law is the least pervasive by continent and civil law is the most pervasive by landmass, making standard legal systems the most pervasive worldwide. It is the business with the largest number of workers. It refers to a bill introduced by the government to amend a code or the enshrinement of a code in a constitution. Although the Babylonian Code of Hammurabi, which was written in 1790 BC, is where

the idea of coding originated, civil law systems are a creation of the Roman Empire (Khan, 2024). In or around the year mid of 5th century, Emperor Justinian published the *Corpus Juris Civilis*. The Greek Empire's legal structure underwent a major reform that produced codified texts. Civil law was influenced by religious laws such as scripture and Islamic law. In principle, judges now interpret civil law rather than creating it from scratch. According to comparative law experts and economists supporting the legal foundations, only parliamentary enactments (rather than common law precedent) are legally enforceable. Civil law is typically divided into four categories by philosophy (Halim et al., 2020).

German Civil Law

it is applicable in Germany, Austria, Russia, Switzerland, Estonia, Latvia, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Slovenia, Serbia, Greece, Portugal and its former colonies, Turkey, and East Asian countries such as Japan, South Korea, and Taiwan (Republic of China) (Velasco Retamosa, 2018).

French Civil Law

In France, the Benelux countries, Italy, Romania, Spain, and their former colonies (Merryman, J., & Pérez-Perdomo, 2018).

Scandinavian Civil Law

Denmark, Norway, and Sweden. Finland and Iceland inherited a system that was traditionally entwined with Scandinavian culture (Taylor, 2001).

Chinese Law

Is a hybrid of civil and socialist principles that govern the People's Republic of China (Tollefsen, 2020). However, several of these legal systems are better accurately described as hybrids:

Napoleonic to Germanic (Italian Civil Law) Influence

Due to geopolitical ties, the Italian civil code of 1942 supplanted the earlier one of 1865, including Germanic characteristics. Other nations have followed Italy's lead, including the Netherlands (1992), Argentina (2014), Brazil (2002), and Portugal (2002). (1966). the majority of them have been influenced by Italian legislation, such as the unification of civil and commercial regulations (Merryman, & Pérez-Perdomo, 2018).

Religious Law is a Legal Source Based on a Religious System or Text, Albeit The Approach Differs

For example, Jewish and *Hadaka* public law have a static and unalterable nature, preventing alteration by legislative acts of government or evolution through judicial precedent; Christian Canon law, in its helpful code, is more analogous to civil rule. Islamic *Sharia* law (and *Fiqah* jurisprudence) is comparable to common law since it is founded on legal precedent and identical reasoning (*Qiyas*) (Edge, 2017).

Sharia is Islam, *Halakha* in Judaism, and canon law in some Christian communities are the three primary types of religious law. In some circumstances, they are meant just as moral instruction for individuals, while in others, they serve as the foundation for a country's legal system. The latter was very age-like. In my paper, I will compare common law standards systems to succession and private law jurisdiction.

Part I

Brief Islamic laws regarding succession and their steps of calculations, exceptions, and non-Muslim status.

Part II

Brief civil laws regarding succession and the concept of universal succession.

Part III

Jurisdiction of Private International Law.

ISLAMIC LAWS OF SUCCESSION

"Learn about inheritance and teach it, for it is half of knowledge, but it will be forgotten. It is the first thing that will be taken away from my nation."

- Prophet Muhammad. P.B.U.H. (*Ibn Majah*) (Umar, 2021).

Terminologies Used in Islam

Mirth-Total Heritage: All moveable and real property left by the dead person, whether attained, transmitted, or bestowed.

"Warith-heir"

A family member who might be qualified to receive an inheritance from a dead relative's estate (Hennigan, P. C. 2004).

"Wassiya-will"

An order that, in accordance with the deceased's desires, distributes a specific portion of their property after death This is asked to be given out after a person's passing rather than being provided during their lifetime.

Up to one-third of your assets may be left in your will.A choice made with a higher percentage will only take up one-third of the time.An heir who is already eligible for a share of the estate cannot make a selection (*Warith*).

Walad (Awlaad) - Children (C.H)

"Son" (S'), "Daughter" (D'), "Son's Son" (S.S), "Son's Daughter" (S.D), "Son's Son's Son" (S.S.S.), "Son's Son's Daughter" (S.S.D), Son's Son's Daughter (S.D), Son's Son's Daughter (S.D), Son's Son's Daughter (S.D), Son's Son's Daughter (S.D), Son's Son's Daughter (S.D), Son's Son's Daughter (S.D), Son' (S.S.D.). Other forms of grand kids will be classified in *Dhilihram* even if they are not included in this criteria (see below)

Ikhwa-Siblings (Ik)

Two or more living people descended from true parental or motherly brother's and sister's, regardless of gender. Siblings who share the same parents as the deceased are referred to as "real brother" (RB) and "real sister" (RS) (*haqiqi*)

Paternal Brother (P.B.) and Paternal Sister are terms for step-siblings with an average regular parent and who share the same mother as the deceased (P.S). (A*llati*)

Siblings who share the same mother as the deceased but have separate dads (step-siblings with a regular mother) are referred to as maternal brother and sister (M.T) (A*khyafi*).

Under varied circumstances, *Dhil-Furoodh* is the first layer of heirs with a stipulated portion.

Asbah-Residuary (Res)

Heirs in the second layer. Their share is not predetermined; instead, the remainder is eligible to the nearest Asbah connection after applying the appropriate distribution among *Dhil-Furoodh*. Asbah is a male family linked via a male chain (exception: real sister and paternal sister).

After *Dhil-Furooz* and *Asbah, Dhil-irham* (D.I) is the third rank of heirs. If any property remains after *Dhil-Furooz* has been distributed and there is no *Asbah, Dhil-ihram* may be entitled to a part.

The closest in a relationship will get the total remaining share.

Kalala –

A person who does not have any living C.H. (S., D., S.S., S.D, S.S.S., S.S.D.), nor *hasan* alive father or grandfather.

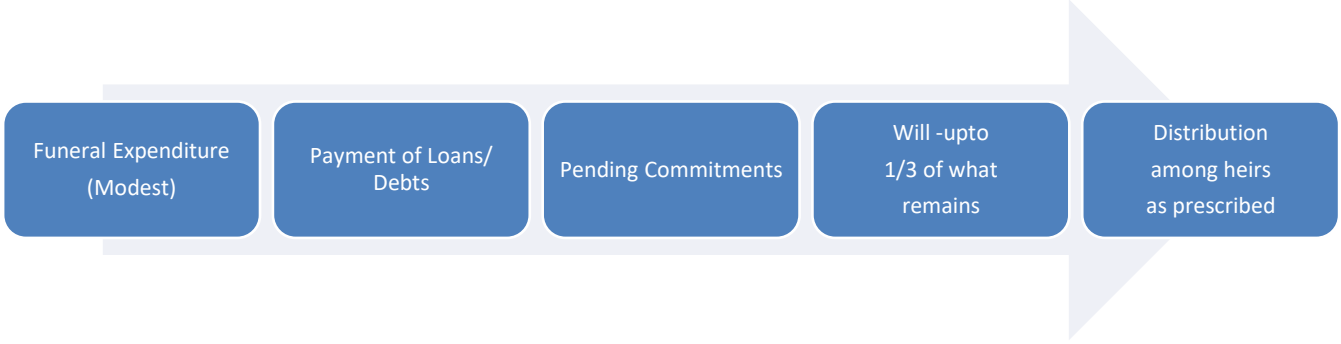
ABBREVIATIONS

Abbreviation	Relation	Abbreviation	Relation
H	Husband	S.S.S.	Son's Son's Son
W	Wife	S.S.D.	Son's Son's Daughter
M	Mother	C.H	Children *(awlaad)*
F	Father	I.K	*Ikhwa* 2 or more siblings
F.M	Father's mother	R.B.	Real Brother *(Haqiqi)*
F.F	Father's Father	R.S.	Real Sister *(Haqiqi)*
M.M	Mother's Mother	P.B.	Paternal Brother *(Allati)*
S.	Son	P.S	Paternal Sister *(Allati)*
D.	Daughter	M.T	Maternal sibling *(Akhyafi)*
S.S	Son's Son	Res.	Residuary *(Asbah)*
S.D	Son's Daughter	D.I	"Dhil-Irham"

To simplify the content of the table of "wealth distribution," Some successors' relationships have been condensed.The following are the acronyms that were used:

steps of property legal distribution

The distribution and spending of Mirath in order after a person's demise is as follows:



CALCULATING SHARES

Step 1: List the heirs' share of the deceased's fortune, the deceased's name, the date, and the year of death (last box in the above process).

Step 2: List each relative who was living at the time of the deceased's death.Write "R" in front of any relatives who meet the requirements for the extended residuary ("Res").

Step 3a: Assign shares to each applicable heir in accordance with the circumstances specified in table 1 by going through the table.

Step 3b: If both male and female relatives are present for the next five relationships, disregard the females when allocating shares from Table 1 and put "" in their column.

Their portion will be taken from Table 2

These five connections are:

1) Son "S." and Daughter "D."

2) Son's Son "S.S." and Son's Daughter "S.D."

3) Son's Son's Son "S.S.S." and Son's Son's Daughter "S.S.D,"

4) Real Brother "R.B" and Real Sister "R.S,"

5) Paternal Brother "P.B" and Paternal Sister "P.S"

Step 4: If the "share from 24" column is used in Step 3, this procedure can be skipped: Each numerator is multiplied by the lowest common multiple, or "LCM," of the denominators of the allocated shares.The denominator will always be 24 or less.For instance, shares are 1/6, 1/2, and 1/8 if listed.The denominators 6, 2, and 8 are then multiplied by 24 to get the lowest common multiple, or LCM. Out of a total of 24 shares, the corresponding numerators will then be 4, 12, and 3 (the common denominator).

Step 5: Calculate the remaining shares. Add all assigned numerators and subtract the total from the common denominator. In the above example, the posted shares are 4, 12, and 3 out of the common denominator of 24. The sum of numerators is 4+12+3= 19. The remaining shares are 24-19= 5.

Step 6: Slide on table 2 from left to right. Allocate each leftover share to the applicable category.

Males in that category will receive a share that is twice as large as females' share if the category is one of the five relations stated in step 3b. In this instance, increase the number of male students by two and then add a number of female students. Divide the allotted shares by this amount and distribute two pieces to men and one to each woman.

E.g. Two sons ("S.") and two daughters ("D."), for instance, each receive 12 shares.The number of men is multiplied by two (2 x 2 = 4), and the number of females is added (4 + 2 = 6). Once the 12 shares have been split into 6 portions, each of which contains 2 shares, the males will each receive 2 shares, while the females will receive 1.When all is said and done, each boy receives 4 shares and each daughter receives 2 shares, making a total of 12 shares (ratio 2:1).

Step 6a: Use Table 3 to determine which closed Res in a relationship will receive the shares if they are allocated to the extended residual "Res" (Asbah) category while using Table 2.

Step 7: We should divide up all the shares among the suitable successors.None of the deceased's other relatives receives a portion of the inheritance.Divide the shares in each group by the total number of individuals in that category to determine each person's share. For instance, if a wife has a share of 6, a person with two wives will have a share of 3 out of 24. When shares are divided, sometimes the result is a decimal figure, as when 13 shares are divided among 6 people, the result is $2.166/person.we can prevent this by multiplying the entire column (all shares) by the required number of divisions.

Eg: 13 x 6 = 78. Then each share will be 13 out of a total of 78. Keeping it in whole numbers makes it simple and easy to understand.

Step 8: The share should be calculated in measures of wealth ($, acres of land, %, etc.). The algorithm is as follows: The share of each individual's wealth equals (the person's share of total shares) x (the individual's total wealth).

Exceptions

There are two possible outcomes: either the number of shares is greater than the number of assignable heirs ("Problem of Excess (Masla-Radd)") or the calculated shares of heirs are greater than the number of shares that are actually accessible ("Problem of Deficiency (Masla-Awl)". [1]

Table 1: Inheritance Shares

Sr. #	HEIR	SHARE	Share from 24	Condition	Reference
1.	H	½	12/24	[C.H.]x	2
		¼	6/24	[CH] √	2
2.	"W"	¼	6/24	[C.H.] x	2
		1/8	3/24	[CH] √	2
3.	"D"	2/3	16/24	[≥2] [S.] x	1
		½	12/24	[1] [S.] x	1
4.	"SD"	2/3	16/24	[≥ 2] [S.D. S.S.] x	1
		½	12/24	[1] [S.D.SS] x	1
		1/6	4/24	[1D] √ [S.SS] x	5
5.	"SSD"	2/3	16/24	[≥2] [S.D.S,S.S.D, S.S.S,] x	1
		½	12/24	[1] [S.D.S,S.S.D, S.S.S,] x	1
		1/6	4/24	[1d or 1SD] √ [S.S.S, S.S.S] x	5
6.	"F"	1/6	4/24	[C.H] √	1
7.	"M"	1/6	4/24	[C.H] √ or [I.K] √ or [H+F]	1,6
		¼	6/24	[W+F] √ [1/6]x	6
		1/3	8/24	[1/6]x [1/4]x	1
8.	"FF"	1/6	4/24	[C.H.] √ [F]x	1
9.	"FM"	1/6	4/24	[M]x [F (Hanafi & Maliki)]x	7
10.	"MM"			[M]x	
11.	"RS"	2/3	16/24	[≥2] [CH. F. FF. RB]x	4
	"RS"	½	12/24	[1] [CH. F. FF. RB]x	4

[1] لطف الله ثاقب, and حافظ فضل حق حقانی. "حصص اصحاب الفروض فی علم الفرئض، فلسفتهاومقارنتها باالقانون الباکستانی." *Jihat ul Islam* ,13 no. 1 (2019): 253-269.

12.	"PS"	2/3	16/24	[≥2] [CH. F, FF. RB. RS. PB]x		4
		½	12/24	[1] [C.H. F. F.F. R.B. P.B.]x		4
		1/6	4/24	[1RS}√ [C.H. F. F.F. R.B. P.B.]x		4
13.	"MT"	1/3	8/24	[>2] [C.H. F. F.F.]x	Divided equally regardless of gender	2
		1/6	4/24	[1] [CH.F. F.F.]x		2

Table 2: Heritage Shares (Residuary)

Sr.#	14	15	16	17	18	19	20	21	22	23	24	25	26
Heir	S	S.S.	S.S.S.	F	F.F., F3, F4…	R.B.	R.S.	P.B.	P.S.	R.E.S. R27-144	Radd (prob of excess)	D.I.	State (bait-ul-mal)
Add-on	D.	S.D.	S.S.D		R.S.		P.S.						
detail	A	A	A B		A	D	A	D E	F	G	H		
Reference	1	1	1	8	8	4, 8	5, 9	4, 8	5,9	9	10		

Guide for table 2: Move on this table from Left to right (Sr. # 14 □ 26) and assign all leftover shares from table 1 to the first eligible category in Table 2. The other types will not get any share.

A: From this share, S.D. will also get a share if she did not get it while using table 1.

B: If S.D. did not receive a share while using table 1, she will also receive one from this share.

C: This sequence's closest member will get the portion.(For instance, F3 will not receive a portion if F.F. is present.F4 will not receive a portion if F.F. is absent and F.3 is present.

D: Only if they weren't qualified for a share under Table 1, will these females receive a portion here (using Table 2).

E: The Real Sibling [RS] is additionally absent.

F: Additional male relatives who are connected through a line of males are referred to as Asbah (Res) in this group.The share will go to the person who is nearest; the others will not.

G: The following part provides an explanation of the excess problem.

H: When no one from Senior #1 to Senior #24 is present, the land can then be divided among the DhilIrham. In this case, the money will all go to the nearest relative (Pelletier Jr, G. A., & Sonnenreich, M. R. 1966).

SAMPLE CASES

All calculations and solutions can be completed by creating a single distribution table. Please use the "Steps of Wealth Distribution" to create this table. The solutions are provided here for the example case, and labels identify the steps.

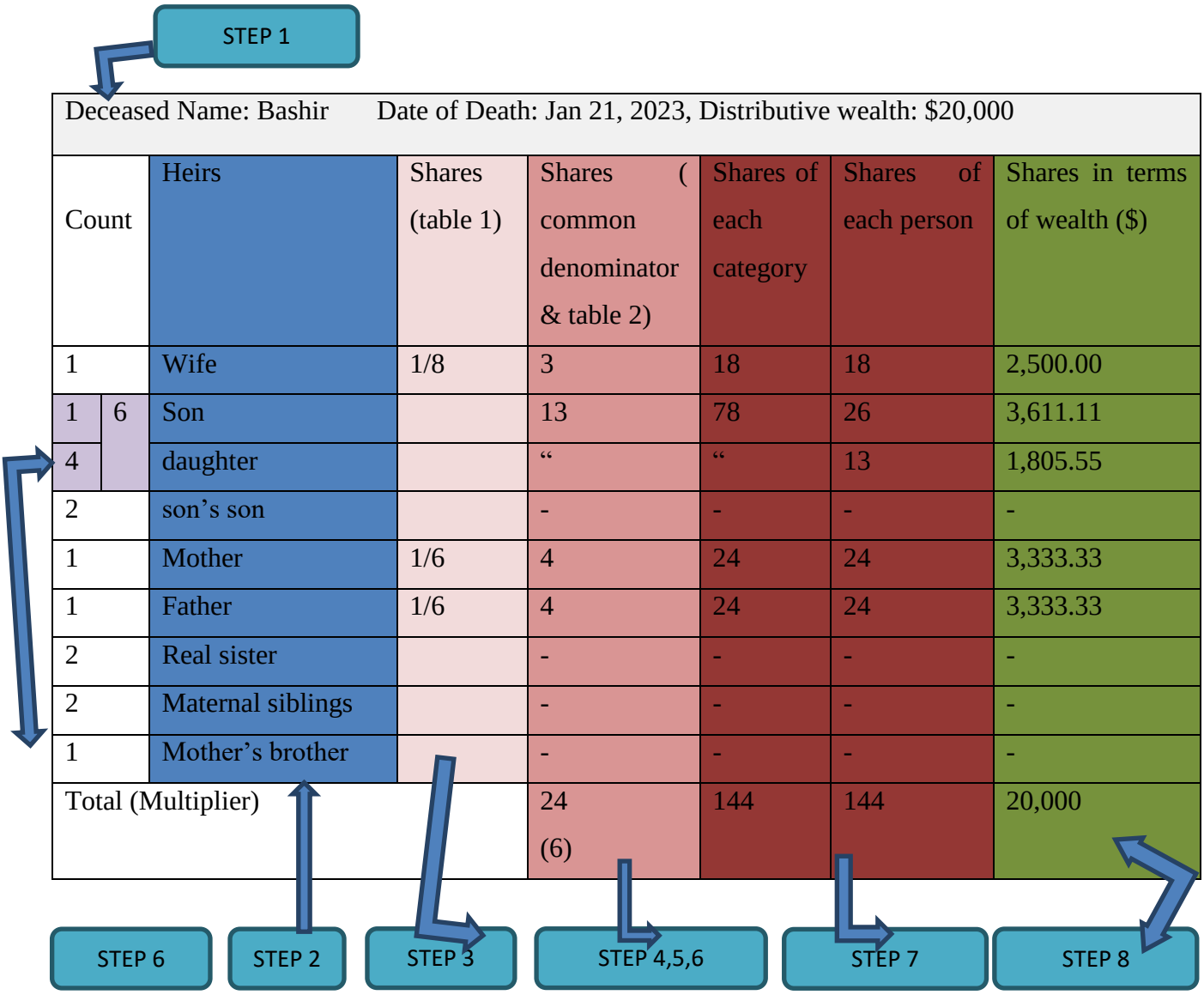
Case: On 21 January 2022, Bashir passed away and left behind $20,000.

The following family members were still living at the time of his passing:

Wife, Four Daughters, 1 Son, 2 Son's sons, Mother Father, 2 Real sisters,

1 Maternal brother, 1 maternal sister, Mother's brother,

Calculate the distribution of his wealth among his heirs (Mehfooz, M., & Aziz, F. 2020).



INELIGIBILITY FOR INHERITANCE

Homicide

Even if they have a prescribed portion, the deceased's murderer will not be eligible to receive their inheritance.

Allah's Messenger said, "One who kills a man cannot inherit from him." (Al-Ghoshimi, A. M. G. 2019)

Difference of Faith

Both Muslims and non-Muslims are not eligible to receive an inheritance from one another.If a person wishes to leave a portion of their estate to a non-Muslim relative, they may do so up to one-third of their total assets in their will.

Prophet Muhammad (P.B.U.H) said, "A Muslim does not inherit from a disbeliever, a disbeliever does not inherit from a Muslim." (Chiroma, Magaji, 2014)

Illegitimate Child

Only the woman will be considered the legal parent of an unmarried, adulterous child. Falsely rejecting paternity, however, is a serious sin.

A man and his wife experienced lian during the Prophet's lifetime, and the man disputed the paternity of their child. The child has since only been deemed the wife's property since the Prophet ruled that they were to be separated (divorced) (Halim et al., 2020; Khan et al., 2024).

Inheritance and Women

In Islam, women are permitted to receive property. Generally speaking, men with the same degree of kinship to the dead receive the other half of the inheritance, with Islam giving women the other half. For instance, if the decedent had both male and female children, a boy would receive twice as much as a daughter. In addition, a childless man leaves half of his estate to his sister, but a childless woman leaves her entire estate to her sibling.

This notion, however, is not uniformly valid, and there are other situations in which women and men may get equal shares. For example, the percentages of a childless decedent's mother and father and the stakes of their descendants are identical. A uterine brother's claim is also similar to that of a uterine sister.

Some argue that, under Islam, women have the same right to inherit as males.

In other cases, women receive twice as much as men; for example, if there are just parents and husbands, the husband will receive half, the father will receive 1/6, and the mother will receive 2/6. According to *Ibne-Abbas*' interpretation, Verse 11 and 12 of *Sura Al Nisa*, according to *Ibne-Abbas*' In addition, in the instance of *Kalalah*, the Qur'an makes no distinction between males and females. *Kalalah* refers to a person who has no parents or children and all of his deceased relatives other than his parents and children. It also refers to connections that did not exist because of [the deceased's] parents or children (Harahap et al., 2020). In the opinion of Islamic scholars, the duties placed on couples are the fundamental cause of this disparity. In Islam, a husband has responsibilities to provide for his family out of his inheritance, but a woman has none. In addition, bride price, also known as dowry, was historically observed in Arab culture as "bride price" rather than dowry. When a man married, he presented a gift to his wife or family rather than the other way around, which placed financial responsibility on men when there was none for women. This rite was kept, but Islam greatly altered it. The divine directive states that the lady alone is entitled to the dowry (mahr), not her family. The stress on the spouse from not having the required dowry at the time of the wedding can also be reduced by delaying it. The wife can either wait until a certain period or become a lien on the estate when the husband passes away and happily distributes their dowries to women (as an obligation). You can enjoy it if they choose to willingly return some of the dowry, though (Omar, 2014; Riaz, & Usman, 2024).

INTERRELIGIOUS LAWS

Islamic Law, Interfaith Law, And Dispute Resolution Law

A defensive and exclusive religious legal system, like Islamic law, refuses to acknowledge or implement other laws. It aims to preserve the sacred chastity of its neighborhood. Due to the fact that Islamic law will constantly

uphold its rules and prevent the occurrence of competing laws, some modern scholars assert that Islamic law does not, by its very nature, recognize a concept like conflict law (Zin et al., 2019; Khan, 2024).

The Dhimmi

Non-Muslims may not have the same legal status in Muslim countries as they do in social, economic, or political spheres. The phrase "tolerance of religious plurality based on inequity" sums up the Islamic attitude toward non-Muslims living under Islamic authority. While the majority of Muslim scholars focus on Islam's compassion, non-Muslim scholars prefer to highlight the unfairness of treating non-Muslim residents as second-class citizens. Tolerance and injustice, however, have always been and remain legal realities that have been tinged in different white and black tones throughout Islamic history. Even briefly reviewing the legal standing of non-Muslims under Islamic law is essential before moving on to the legal facts of the 20th century (Manea, 2014; Khan et al., 2023).

Islamic law recognizes both Muslims and non-Muslims as legitimate subjects. The law divides non-Muslims into three groups: Muslims, who reside outside of Islamic countries, and non-Muslims, who do so.

Harris are permitted brief entry into Islamic countries as musta'mins. Dhimmis reside within the confines of Islam. In terms of contemporary terminology, dhimmi would be subject to interreligious conflict law and musta'mins to international conflict law.

Limitations on Non-Muslim Personal Status Law Autonomy

Before 1956, Muslims, Christians, and Jews all had unique status rules and tribunals in Egypt. Muslims lived in a single society, whereas Christians and Jews were divided into smaller groups, each of which had its own status, legal system, and court. The tribunals for Muslims were known as Shari'a Tribunals, while the courts for non-Muslims were known as Milli Courts. The Muslim personal status legislation was passed by the Egyptian legislature, and all of the Sharia Court's judges worked for the government. With the exception of the requirement that their own substantive and procedural legislation be approved by the Egyptian government, Christians and Jews had their own laws and tribunals (Berger, 2001; Khan et al., 2023).

THE CONCEPT OF UNIVERSAL SUCCESSION

Roman Law

The term "universal succession" is a very recent invention. Furthermore, it describes the succession after a person dies under modern civil law and its progenitor, Romulus law. Under Roman law, the term "universal line" refers to a person's right to the entire estate, which encompasses all of the decedent's deciduous (hereditary) rights and obligations. One heir (heres) or many heirs (heredes), depending on whether the succession was testate or intestate, could assume joint possession of the entire estate. The estate (heredity), which was transferred according to Roman succession, represented the sum of all the deceased person's rights and responsibilities—apart from his political, social, and familial obligations, which were not regarded as inheritable (persona). The transfer of title by the heirs was deemed to co-occur with the person's demise and to have been a full transfer of title at that time (Abrahams, 1941; Hussain et al., 2023).

Legacies might be paid out of the estate if there was only one universal successor, even though the heir or heirs as universal successors had the right to the entire estate or an undivided part. Because each heir

became eligible to an undivided share of the estate as a partner with the other heir or heirs, multiple heirs had no impact on how the estate devolved as a whole. A similar concept exists in common law, where the residua legatee to a will is the person who gets everything else after the specific legacies.

The Roman theory had the effect of passing on the deceased's personality and heritage to his heir or heirs. This continuity of rights and privileges was founded on social and religious beliefs rather than economic considerations. Its objective was to ensure that the family would be perpetuated and that the responsibility of sustaining family worship and reverence for ancestors (sacra) would be passed down to someone (Popescu, 2014; Khan et al., 2023).

French Law

From Roman times to the present, the legal notion of universal succession has remained unchanged in French Civil Law. The inheritance is treated as a single mass (*l'uniti du Patrimoine*) and vests in the heir or heirs immediately upon death. They are said to have *seisin*, a legal term identical to that used in the Common Law. Like the Roman *heres*, the French heir succeeds not only to the estate but also to the deceased person, as is the case under Common Law. When an heir accepts the estate or his part, he becomes responsible for all estate obligations, even if those debts exceed the assets (Velasco Retamosa, 2018; Hussain et al., 2023).

Inventory Right

Similar to later Roman law, a French heir, or universal successor, has the option of accepting or rejecting the estate or accepting with the advantage of inventory, whether by testacy or intestacy. Stock is used to make acceptances and provides a delayed right to decline. The list must be prepared within three months of the declaration being made in court to this effect (Giesey, 1977; Khan et al., 2023).

The Universal Successor in Intestacy

French law distinguishes between legitimate heirs and unreliable successors in the case of intestacy. The former are universal successors and receive possession of and title to the inheritance upon the demise of the decedent. Even though they are entitled to the estate, an irregular successor lacks the right of seisin and must obtain a judicial order to assume possession (envoyer en possession). The state, illegitimate children, and intestate succession were all deemed abnormal successors in the legislation's original wording (Dyson, 2003; Khan et al., 2022).

Executors and Administrators

The need for an individual in charge is reduced since the heirs have direct ownership of the estate. There is no equivalent to the Anglican court or award of affairs in France, as there are no courts mainly intended to deal with inheritance. A testator can designate one or more intestacy administrators (executors testamentary) to carry out his desires, including the timely payment of heritage and the supervised settlement of the estate, at his discretion. The French executor has the authority to challenge the will's legality and sell up with all sorts of things to cover legacies when finances are insufficient. According to Anglican law, he does not inherit the estate, which transfers to the heirs immediately. Because the heirs

have direct property ownership, the executor is not considered the estate's representative. Notwithstanding this, the executor may grant him the movable title, but only for a year. If the inheritance goes unclaimed, anybody with a significant stake can apply for a custodian or administrative position, such as a consumer (Counter, 2017; Riaz, N., Khan et al., 2022).

German Law

In German law, the notion of universal inheritance (universal succession) is quite similar to that of Latin and French law. When a person dies (*Erbfall*), his real estate instantly goes to his heir or heirs, whether via testacy or intestacy. There is no difference between moveable and immovable assets, and all assets pass to the heirs in both title and possession, even if they are unaware of the decedent's death or the location of the item. The German Civil Code allows the district court (*Amtsgericht*), which functions similarly to an Anglican Probate Court, to issue an inheritance certificate (*Erbschein*). This document is required to make a legal modification to the land registration to reflect the current title (Tollefsen, 2020; Amjad et al., 2022).

Whether via testacy or intestacy, an heir (*Erbe*) inherits the entire estate or a portion thereof. A legatee is a person who has the sole authority to demand that the heir produce specified movables or immovable or pay a set amount of money (*Vermichtnisnehme*). Only the legatee's legal right (*anspriiche*) to seek his share of the inheritance can be exercised against the heir or heirs.

Laws of Succession for Foreigners in China

Over the past few decades, China has experienced rapid development. As a result of this tendency, many foreigners made investments or immigrated to China to work.

Chinese immigrants were moving abroad in greater numbers. Many of them are Chinese citizens who own numerous real estate assets. The public notary manages the majority of the administrative tasks involved in the transfer of inherited property, similar to many other nations. It should be mentioned, though, that the Chinese public notary is extremely cautious when handling real estate succession, particularly when it involves foreigners. It might be difficult for the successors of real estate held by foreigners to process the succession.

The succession of real estate properties in China by a foreigner shall be regulated by Chinese law, according to the Law of Succession of China, which became operative on October 1, 1985.Two methods of inheritance are provided by the Law of Succession:

1) A Will-based Transfer,
2) Inheritance by Law.

When a decedent leaves no will or only part of one, succession by law will take effect. A will usually takes priority in these situations.

A Will-Based Transfer

The will must be created in accordance with Chinese legislation, using the appropriate formats and procedures.Additionally, imagine that the will was drafted outside of China before being delivered to the

public registrar. In that situation, it must be legalized, which entails first having a public notary outside of China notarize it and then having the Chinese embassy or consulate there certify it.

Ownership certificates for real estate property and identity documents for the decedent and the successors, which may also need to be legalized (Lu, 2013; khan et al., 2021).

Inheritance by Law

Under Chinese law, the husband and wife are typically regarded as joint owners of the couple's assets, which should be divided equally between them first. Only the decedent's share should be inherited. The transition shall occur in the following order:

First place goes to the spouse, parents, and kids; second place goes to siblings, paternal grandparents, and maternal grandparents.

The prejudice of the second-in-line successors will be passed down to the first-in-line successors when succession starts. The second-in-line heirs will take over if there isn't a first-in-line successor. Successors who follow in the same order will typically receive equally.

If there is a legal succession, the successors must present evidence of their connection to the decedent and an affirmation that no other successors exist. This is, unsurprisingly, the most challenging part of the job due to the challenges involved in locating documents, some of which were created decades ago, and resolving the discrepancies brought on by name changes and immigration. The legalization of papers created outside of China is also required. According to our expertise, preparing the required paperwork to be submitted to the public notary may take several months.

In order to assert their rights, the successors must file a lawsuit with the court where the real estate properties are located if they are unable to provide all the necessary papers.Due to the need for a public announcement by the court to ensure there are no additional successors, the court procedures take much longer (Lei, 2010; USMAN et al., 2021).

LAW CONFLICTS IN SUCCESSION AND PRIVATE INTERNATIONAL LAW JURISDICTION

The Regulation's Purpose

Material Utilization

The Regulation "applies to successions involving the estates of deceased persons" (art. 1, para. 1). The *Mortis Causa* successions are explored. *Mortis Causa*: "Any type of transfer of assets, rights, and liabilities for *Mortis Causa*, be it a voluntary transfer as a disposition for *Mortis Causa*, or a transfer in the form of the ab intestate succession," says Art. 3, para. One, letter a) in defining succession (Franck, 2019; Usman et al., 2021).

In paragraph 9, the European legislature adopts a comprehensive definition of succession, noting that it shall cover in its scope "all civil-law features of a dead person's estate." Specifically, all types of transfers of assets, rights, and liabilities due to death, whether by consensual transaction under the disposal of assets upon death or via intestate succession. As a result, the regulation's scope is comprehensive, encompassing

all subjects that have historically been circumscribed in the methods to manage sphere by state internal law, except some concerns of a punctual nature.

As a result, elements typically associated with public law, such as fiscal customs or administrative nature, are excluded from the regulation's application. These exclusions are also expressed in other rules (Article 1 of Regulation (EC) No. 44/2001 regarding the jurisdiction, recognition, and enforcement of court decisions in civil and commercial matters (Brussels I); Art. 1 of Regulation (EC) No. 1215/2012 on jurisdiction and the enforcement of foreign arbitral awards; and Art. 1 of Regulation (EC) No. Rome II). As a result, they are solely regarded as "civil law elements." (Husovec, 2014; Usman et al., 2021)

Jurisdictional Practical Application

The Regulation applies to all Member States, except Denmark (art. 1 and 2 of Protocol No. 22 on Denmark's position, annexed to TEU and T.F.E.U.)), the United Kingdom, and Ireland (art. 1 and 2 of Protocol No. 22 on Denmark's position, annexed to TEU and T.F.E.U.) (according to Art. 1 and 2 of Protocol No. 21 on the part of the United Kingdom and Ireland in respect of the area of freedom, security, and justice, annexed to the TEU and T.F.E.U.—O.J. C 326 of October 26, 2012, p. 295)) (Wade, 2019; KHAN et al., 2020).

Regulation's Temporal Application

One of the rules applies to successions begun on or after August 17, 2015. (Inclusively). As a result, under Art. 22, the decision of the applicable law for the series would have been conceivable only if it had been made as of August 17, 2015. However, to promote predictability in the legislation governing succession, the decision was taken even before the date, but the line was not opened until afterwards (or on August 17, 2015). The testator is greeted by the regulation, which validates the choice made before its implementation. According to art. 83, para. 2, “the deceased had chosen the law applicable to his succession before August 17, 2015. That choice shall be valid if it meets the conditions laid down in Chapter III or if it is valid in the application of the rules of private international law in force at the time the choice was made, in the State in which the deceased had his habitual residence or in any of the States whose nationality he possessed” (Rosenberg, 1994; Khan et al., 2020)

Forum Selection

The Regulation permits interested parties to pick the member state court of the member state whose law has been chosen by the author of the succession under art. 22. Thus, if "the law chosen by the dead to govern his succession under Article 22 is the law of a Member State, the parties may agree that a court or courts of that Member State should have exclusive jurisdiction to judge on any succession matter," according to Art. 5, the agreement's existence confers exclusive international jurisdiction for the Member State court whose law has been chosen.

a) Firstly, the forum selection is only conceivable if the deceased has chosen the relevant law for the succession under the Regulation's restrictions and limitations. To put it another way, the efficiency of the succession author is dependent not only on the consent of all heirs but also on the previously stated will of the successor author, which he formed based on the existing legislation.

b) The European legislator's goal in permitting the option of a forum was to enhance freedom of choice in this area while still ensuring jurisdictional unity. Furthermore, the relevant legislation (*Gleichlauf*), avoiding the circumstance in which the deceased's last habitual residence court would be forced to apply international ecological succession law to the succession (the chosen one). In this regard, the Regulation's recital no. 27 expressly indicates that its provisions "are created to guarantee that the authority dealing with succession will, in most cases, apply its legislation."

c) Only a member state's jurisdiction might be considered (except Denmark, the United Kingdom, and Ireland). The heirs should not be permitted to choose the forum if the deceased chose the law of a third nation as the relevant law for the inheritance. As indicated, the regulation does not control the expansion of third-country authorities' regulations. As shown, the code does not contain the growth of third-country authorities' power. The deceased may have the option of applying the law of a third country to their succession (art. 22), although this choice has no bearing on the foreign jurisdiction of the courts (Rosenberg, 1994; Khan et al., 2020).

Declining The Jurisdiction

Art. 6 establishes two assumptions under which the courts to which the matter was referred may or must decline jurisdiction: If the decedent had chosen the law applicable to their succession, according to art.22, and this law is that of a Member State (whether according to art.4 or, where appropriate, under art.10 of the Regulation), art.6 establishes two assumptions under which the courts to which the matter was referred may or must decline jurisdiction:

a) In the first scenario, the courts may decline jurisdiction at the request of one of the parties in favour of the Member State courts whose law has been accepted. Competent to decide on the succession. "

b) Consider a scenario in which the parties to the proceedings have stipulated in a choice of venue agreement that a court or courts of the Member State whose law has been selected as applicable to the succession shall have jurisdiction.Under a choice of venue agreement, the parties to the proceedings in that case have concurred, “to give jurisdiction to a court or courts of the Member State whose law has been chosen as applicable to the succession.” In the interest of the member state courts whose law has been selected as relevant to the succession, we are in the presence of a mandatory declination of the jurisdiction. (art. 6, letter b).

CONCLUSION

Despite the drawbacks highlighted, the legislator missed an opportunity to develop a modern system of conflict of laws that reflected the advances made in theory and practice of private international law. Above and beyond any flaws, private international law regulations in many legal systems should be viewed as a significant step toward the current conflict of law control. It incorporates the fundamental needs of conflict of laws, meets many international criteria in this area, and will make significant progress in legislating private international law in many legal systems. Private international law is projected to grow in importance in the coming years. The growth of legislation and other sources, namely judicial precedent, should be the next step in this direction.

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